IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Shi Baw Ch'ng   Art Unit : 2157
Serial No. : 10/052,897   Examiner : Uzma Alam
Filed   : January 16, 2002   Conf. No. : 9091
Title   : MANAGING NETWORK FAULTS

MAIL STOP AF
Commissioner for Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

In an advisory action dated March 14, 2007, the examiner maintains the rejection based on the Chirashnya reference, this time using a new explanation.

Yet, the new explanation, like the old one, fails to show where each element of the claims is found or inherent in the reference and, therefore—like the old explanation previously contested by the applicant—fails to state a *prima facie* case of anticipation.

In the applicant's claim 1, it is *after* certain network faults are identified that traps are generated and sent. The examiner's new explanation appears to address how the faults are analyzed but does not address the order of events. As the examiner states:

> Applicant argues that there is no disclosure of generating a batch alarm based on the results of "processing information to identify network faults that cause or are caused by other network faults," The reference Chirashnya teaches a fault notification system by ["]A recommendation and explanation generator 52 receives the malfunction assessments computed by diagnostic engine 48, and compares the assessments for the different modules in network 22 to expected, baseline values held in fault model 50. When the failure rate assessment for a given module is significantly higher than its baseline value, generator 52 typically recommends to the user to take further diagnostic action or to replace the FRU containing the module. Criteria for making such recommendations are described further hereinbelow. The recommendations are presented via a user interface 54, Preferably the user interface also allows the user to input queries to the recommendation and explanation generator, and in response to receive a comprehensive explanation of the rationale for the recommendation.["]

[apparently citing Chirashnya, col. 9, lines 49-63]

This quoted paragraph from Chirashnya describes what happens *after* (not before) an alarm is generated, as is clear from the preceding column in Chirashnya:

A diagnostic engine 48 *receives the alarm stream* from event formatter and merger 40 and uses this information to determine and update reliability assessments for the modules ... The methods used by the diagnostic engine *are described in detail hereinbelow* (col. 8, lines 50-58).

Figure 3 of Chirashnya also demonstrates that the steps that the examiner apparently equates to "identifying network faults that cause or are caused by other network faults and that contribute to a failure of a network element" all occur *after* (not before) step 60 "Receive Alarm." The fact that Chirashnya may accumulate faults to generate a batch alarm does not change the fact that the analysis of the faults occurs *after* the alarm. Merely accumulating faults until they exceed a certain number is not "processing information to identify network faults that cause or are caused by other network faults and that contribute to a failure of a network element." Analyzing fault information *after an alarm has been generated* does not describe and would not have made obvious generating traps "*based on the results* of the information processing."

Moreover, the network faults for which traps are generated in the Chirashnya system are not "*fewer than all*" of the network faults that are occurring, as in the applicant's claim 1. To the contrary, Chirashnya reports alarms "for each detected fault condition" (see col. 9, lines 47-48) or issues a batch alarm when a certain number of faults have accumulated (see col. 13, lines 1-3). Reporting an alarm for each fault, whether immediate or cumulative, does not describe and would not have made obvious reporting an alarm for "*fewer than all*" of the faults.

Chirashnya describes neither generating traps "based on the results of the information processing" (as in lines 2-4 of claim 1) nor generating traps "with respect to fewer than all of the network faults." Either of these reasons is sufficient, even without the other, to show that Chirashnya does not anticipate and would not have made obvious claim 1. With one element directly contradicted and another absent, it is factual error to reject claim 1 over Chirashnya.

Independent claims 10, 11, and 13 recite similar features and are patentable for at least the same reasons as claim 1. All of the dependent claims are patentable for at least the same reasons as the claims on which they depend.

Please apply any charges or credits to deposit account 06-1050, referencing attorney docket no. 12144-010001.

Respectfully submitted,

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